



**THE ATTORNEY GENERAL  
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON  
ATTORNEY GENERAL**

June 18, 1958

Hon. J. R. Owen  
County Attorney  
Williamson County  
Georgetown, Texas

Opinion No. WW-453

Re: Whether the S.P.J.S.T.  
Rest Home in Taylor,  
Texas, a non-profit  
private corporation,  
is exempt from taxation.

Dear Sir:

We quote from your request for an opinion as follows:

[Question]

"The S.P.J.S.T. Rest Home, a non-profit private corporation, has constructed and is presently operating a rest home in Taylor, Williamson County, Texas. This home takes the position that its property is exempt from taxation, and Mr. Jack Gillum, Tax Assessor-Collector of Williamson County, Texas, has requested this office to obtain an opinion from you as to whether the property is exempt.

[Relevant Facts]

". . . At this time, all of the residents in the rest home pay room, board and care, and the amount charged per person living in the rest home varies with the ability to pay. The organization is too far in debt at this time, which is at the very beginning of its operation, to maintain residents without pay. This latter information was furnished in reply to a question as to whether or not the home permits purely charitable residents who are not required to pay anything. No resident has made a lump sum payment upon entering the home, and the residents do not give any money or property to the home upon entering, other than the regular payment for room and board. No resident has devised any property or bequeathed any money to the rest home. The charter discloses eligibility for admittance to the rest home which is not limited to S.P.J.S.T. Lodge members. No part of the buildings or premises is used by anyone other than residents of the home, and there are no types of concession stands or stores which might be selling one

or more items to the residents of the home or to the public. In the event the home does make any profit in its operations, any such profits will probably be used for additional construction in connection with the home, or if this is not done, the cost per resident will be materially lowered."

Our answer to the above-mentioned question is in the negative.

The Legislature, acting under the authority granted it by Section 2 of Article VIII of the Constitution, enacted Section 7 of Article 7150 V.C.S. exempting "all buildings belonging to institutions of purely public charity together with the lands belonging to and occupied by such institutions not leased or otherwise used with a view to profit. . . ."

The Supreme Court of Texas in City of Houston V. Scottish Rite Benev. Assn. 230 S.W. 978 held that property is exempt from taxation if it is both owned and used exclusively by an institution of public charity. The Court further stated that an institution was one of "purely public charity" where, first, it made no gain or profit, second, it accomplished ends wholly benevolent, and, third, it benefited persons, indefinite in numbers and personalities, by preventing them, through absolute gratuity, from becoming burdens to the state.

From the information that you have presented, it is apparent that the property in question is owned and used exclusively by the S.P.J.S.T. Rest Home. The Rest Home conforms to the first two requirements of a "purely public charity" as set forth in the foregoing case, but fails to meet the third requirement. Since the Rest Home does not accept any resident on a strictly charity basis, it does not benefit persons, indefinite in numbers and personalities, by preventing them, through absolute gratuity, from becoming burdens to the state.

#### SUMMARY

The real property owned by the S.P.J.S.T. Rest Home is not tax exempt for the reason that the Rest Home is not presently functioning as a "purely public charity."

Hon. J. R. Owen, page 3,

Opinion No. WW-453

Very truly yours,

WILL WILSON

Attorney General of Texas

By

Jack N. Price  
Assistant

JNP:db/aa

APPROVED:

OPINION COMMITTEE

Geo. P. Blackburn, Chairman

Marietta McGregor Payne  
Leonard Passmore  
Wayland C. Rivers, Jr.  
Henry G. Braswell

REVIEWED FOR THE ATTORNEY GENERAL

By: W. V. Geppert